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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,520	02/13/2002	Duncan Kerr	APLIP218	8920
22434	7590	03/07/2006	EXAMINER	
BEYER WEAVER & THOMAS LLP			NGUYEN, KEVIN M	
P.O. BOX 70250			ART UNIT	
OAKLAND, CA 94612-0250			PAPER NUMBER	

2674

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/075,520	Applicant(s) KERR, DUNCAN	
	Examiner Kevin M. Nguyen	Art Unit 2674	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

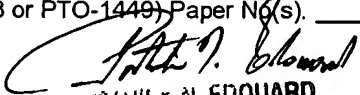
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 32-38.
Claim(s) objected to: _____.
Claim(s) rejected: 20-31.
Claim(s) withdrawn from consideration: 1-19 and 39-55.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


PATRICIA N. EDOUARD
SUPERVISORY PATENT EXAMINER

Continuation of 3 and 11.

Applicant's arguments filed 2/14/2006 have been fully considered but they are not persuasive. Applicant argues with respect to at least independent claim 20 recited "...sampling a plurality of regions of the screen display to acquire color indicators for the plurality of regions," and further "...changing the color of one or more regions of the housing based on the color indicators of one or more sampled regions of the screen display...", see remarks at page 6. In response, the examiner respectfully disagrees. As stated *infra* with respect to claims 20-31, the examiner finds that the combination of Dowling et al teaches, see col. 4, lines 22-34, "the enclosure could turn red and if they go up the enclosure could change to blue. The system could also be used in conjunction with e-business or Internet advertising allowing an individual having a site or advertisement on the Internet to transmit colors they desired the enclosure to be. For example, Coca-Cola could turn a user's enclosure red (or even Coca Cola's specific shade of red) when the user views pages posted by Coca-Cola or when ads for Coca-Cola are presented to the user. Alternatively, the colors chosen could simply be determined to encourage the users purchase of certain types of products. For instance, red and yellow could be presented with food ads or pages as these colors are believed to promote purchases of food items". Therefore, it would have been obvious to recognize that the screen is displayed color of the e-business such as the Coca-Cola and the food ads corresponding to a plurality of regions of the screen display to acquire color indicators for the plurality of regions as claimed, and the enclosure could turn red and if they go up the enclosure could change to blue corresponding to changing the

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color of one or more regions of the housing as claimed. And Nason et al teaches, see col. 3, lines 40-44, "in Fig. 3, the display is modified to includes a graphical user interface in four bars each 20-pixels high/wide outside each of the four display edges: a bottom bar 30, a left side bar 34, a right side bar 36, and a top bar 38". Therefore, it would have been obvious to recognize that the bottom bar 30, the left side bar 34, the right side bar 36, and the top bar 38 corresponding to sampling a plurality of regions of the screen display for the plurality of regions as claimed. In response to applicant's argument that "...sampling a plurality of regions of the screen display to acquire color indicators for the plurality of regions," and further "...changing the color of one or more regions of the housing based on the color indicators of one or more sampled regions of the screen display...", see remarks at page 6, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. For these reasons, the rejection of claims 20-31 based on the combination of Dowling et al and Nason et al has been maintained. It is suggested that claims 20-31 are cancelled, and claims 32-38 have been allowed as indicated in the last Office action.